

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re DOMINO'S PIZZA INC.

MASTER FILE: 16 Civ. 2492 (AJN)(KNF)

THIS DOCUMENT RELATES TO:

RIAD KUCHER, HAROON MOJUMDER
and OMAR FARUK, on behalf of themselves
and all other similarly-situated employees,
Plaintiffs,

v.

DOMINO'S PIZZA, INC., *et al.*,
Defendants.

Case No. 16 Civ. 02492 (AJN)(KNF)

MARCELO DE LOS SANTOS, SANDRO
MAYORAL-CLINICO, AARON CRUZ
AGUACATITLA, and MOUNI YAMBA,
individually and on behalf of others similarly
situated,

Plaintiffs,

v.

HAT TRICK PIZZA, INC. d/b/a/ Domino's
Pizza, *et al.*
Defendants.

Case No. 16 Civ. 06274 (AJN)(KNF)

DECLARATION OF NORMAN M. LEON

NORMAN M. LEON hereby declares as follows:

1. I am a partner with the law firm of DLA Piper LLP (US), counsel for defendants Domino's Pizza, Inc., Domino's Pizza LLC and Domino's Pizza Franchising LLC (collectively, the "Domino's Defendants") in the above-captioned actions, and am fully familiar with the facts set forth herein. I submit this declaration in support of the Domino's Defendants' Motion for Summary Judgment pursuant to Fed. R. Civ. P. 56 (the "Motion").

2. Attached hereto as **Exhibit 1** is a true and correct copy of the sworn Declaration of Riad M. Kucher (“Kucher”), dated April 13, 2016, which was filed as ECF No. 118-5 in *Kucher, et al. v. Domino’s Pizza, Inc., et al.*, 16 Civ. 2492 (AJN) (KNF) the (“*Kucher* Action”).

3. Attached hereto as **Exhibit 2** is a true and correct copy of the sworn Declaration of Haroon Mojumder (“Mojumder”), dated April 13, 2016, which was filed as ECF No. 118-13 in the *Kucher* Action.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the sworn Declaration of Amanul I. Bobby (“Bobby”), dated April 13, 2016, which was filed as ECF No. 118-3 in the *Kucher* Action.

5. Attached hereto as **Exhibit 4** are true and correct copies of relevant excerpts of the transcript of the deposition testimony of Kucher, dated June 29, 2017.

6. Attached hereto as **Exhibit 5** are true and correct copies of relevant excerpts of the transcript of the deposition testimony of Mojumder, dated June 27, 2017.

7. Attached hereto as **Exhibit 6** are true and correct copies of relevant excerpts of the transcript of the deposition testimony of Omar Faruk (“Faruk”), dated June 28, 2017.

8. Attached hereto as **Exhibit 7** are true and correct copies of relevant excerpts of the transcript of the deposition testimony of Bobby, dated June 27, 2017.

9. Attached hereto as **Exhibit 8** are true and correct copies of relevant excerpts of the transcript of the deposition testimony of Sakhayat Hossain (“Hossain”), dated June 29, 2017.

10. Attached hereto as **Exhibit 9** is a true and correct copy of the Standard Franchise Agreement (“SFA”) entered into between Domino’s Pizza Franchising LLC (“DPF”) and Defendant Hat Trick Pizza, Inc., bearing the Bates numbers FranchisorDefs-00001024 through FranchisorDefs-00001068, and which was entered as Exhibit 2 in the deposition of Kim Ridge

(“Ridge”). In an effort to comply with the Court’s Individual Practices in Civil Cases, Rule No. 3.G.vi, **Exhibit 9** is attached hereto as an exemplar of all of the SFAs executed by DPF and each Cookston Defendant with respect to the grant of each such Cookston Defendant’s respective franchise. **Exhibit 9** is identical to these other SFAs with respect to each direct quotation relied upon by the Domino’s Defendants in support of the Motion, and is substantially identical to such other SFAs in all other material respects. Should the Court wish to review the SFAs entered into between DPF and other Cookston Defendants, such will be provided upon request.

11. Attached hereto as **Exhibit 10** are true and correct copies of relevant excerpts of the transcript of the deposition testimony of Louis O’Neill, dated August 29, 2017.

12. Attached hereto as **Exhibit 11** are true and correct copies of relevant excerpts of the transcript of the deposition testimony of Abdul Mannaf, dated October 3, 2017.

13. Attached hereto as **Exhibit 12** are true and correct copies of relevant excerpts of the transcript of the deposition testimony of Ridge, dated September 20, 2017.

14. Attached hereto as **Exhibit 13** are true and correct copies of relevant excerpts of the transcript of the first day of deposition testimony of Robert Cookston, dated September 15, 2017.

15. Attached hereto as **Exhibit 14** are true and correct copies of relevant excerpts of the transcript of the second day of deposition testimony of Robert Cookston, dated September 25, 2017.

16. Attached hereto as **Exhibit 15** are true and correct copies of the sworn Declarations of two hundred and twenty-nine (229) current and/or former employees of the Cookston Defendants, which documents previously were produced by the Domino’s Defendants, bearing the Bates numbers affixed thereto.

17. Attached hereto as **Exhibit 16** are true and correct copies of relevant excerpts of the transcript of the deposition testimony of Mark Rudd (“Rudd”), dated September 29, 2017.

18. Attached hereto as **Exhibit 17** is a true and correct copy of Bobby’s 2014 W-4, dated November 28, 2014, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002490 and was entered as Exhibit 3 in the deposition of Bobby.

19. Attached hereto as **Exhibit 18** is a true and correct copy Bobby’s New York Wage Theft Prevention Act notice, dated November 28, 2014, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002500 and was entered as Exhibit 5 in the deposition of Bobby.

20. Attached hereto as **Exhibit 19** is a true and correct copy of Bobby’s New York Wage Theft Prevention Act notice, dated June 29, 2015, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002502 and was entered as Exhibit 6 in the deposition of Bobby.

21. Attached hereto as **Exhibit 20** is a true and correct copy of Bobby’s New York Wage Theft Prevention Act notice, dated December 28, 2015, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002506 and was entered as Exhibit 7 in the deposition of Bobby.

22. Attached hereto as **Exhibit 21** is a true and correct copy of Mojumder’s 2015 W-2, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number PL000008 and was entered as Exhibit 3 in the deposition of Mojumder.

23. Attached hereto as **Exhibit 22** is a true and correct copy of Mojumder’s New York Wage Theft Prevention Act notice, dated October 13, 2014, identifying his employer as

Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002521 and was entered as Exhibit 5 in the deposition of Mojumder.

24. Attached hereto as **Exhibit 23** is a true and correct copy of Mojumder's 2014 W-4, dated October 13, 2014, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002507 and was entered as Exhibit 6 in the deposition of Mojumder.

25. Attached hereto as **Exhibit 24** is a true and correct copy of Faruk's New York Wage Theft Prevention Act notice, dated October 6, 2014, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002294 and was entered as Exhibit 2 in the deposition of Faruk.

26. Attached hereto as **Exhibit 25** is a true and correct copy of Faruk's New York Wage Theft Prevention Act notice, dated January 1, 2015, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002295 and was entered as Exhibit 3 in the deposition of Faruk.

27. Attached hereto as **Exhibit 26** is a true and correct copy of is a true and correct copy of Faruk's New York Wage Theft Prevention Act notice, dated June 29, 2015, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF0022300 and was entered as Exhibit 4 in the deposition of Faruk.

28. Attached hereto as **Exhibit 27** is a true and correct copy of Faruk's Form I-9, dated October 6, 2014, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates numbers COOKSTONDEF002289 through COOKSTONDEF002290 and was entered as Exhibit 5 in the deposition of Faruk.

29. Attached hereto as **Exhibit 28** is a true and correct copy of Hossain's 2014 W-4, dated October 4, 2014, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002455 and was entered as Exhibit 5 in the deposition of Hossain.

30. Attached hereto as **Exhibit 29** is a true and correct copy of Hossain's New York Wage Theft Prevention Act notice, dated October 10, 2014, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002466 and was entered as Exhibit 7 in the deposition of Hossain.

31. Attached hereto as **Exhibit 30** is a true and correct copy of Hossain's New York Wage Theft Prevention Act notice, dated January 1, 2015, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002465 and was entered as Exhibit 8 in the deposition of Hossain.

32. Attached hereto as **Exhibit 31** is a true and correct copy of Hossain's New York Wage Theft Prevention Act notice dated June 29, 2015, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002470 and was entered as Exhibit 9 in the deposition of Hossain.

33. Attached hereto as **Exhibit 32** is a true and correct copy of Hossain's New York Wage Theft Prevention Act notice dated November 16, 2015, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002472 and was entered as Exhibit 10 in the deposition of Hossain.

34. Attached hereto as **Exhibit 33** is a true and correct copy of Hossain's 2014 W-4, dated August 14, 2015, identifying his employer as Defendant 3694 Lower East Side Pizza LLC.

This document bears the Bates number COOKSTONDEF002471 and was entered as Exhibit 11 in the deposition of Hossain.

35. Attached hereto as **Exhibit 34** is a true and correct copy of Hossain's New York Wage Theft Prevention Act notice, dated December 28, 2015, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002473 and was entered as Exhibit 12 in the deposition of Hossain.

36. Attached hereto as **Exhibit 35** is a true and correct copy of Hossain's 2014 W-4, dated July 10, 2016, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates number COOKSTONDEF002474 and was entered as Exhibit 13 in the deposition of Hossain.

37. Attached hereto as **Exhibit 36** are true and correct copies of two of Kucher's Form I-9s: (i) the first, dated November 11, 2015, identifying his employer as Defendant 3694 Lower East Side Pizza LLC, bearing the Bates numbers COOKSTONDEF002527-28, and (ii) the second, dated September 15, 2015, identifying his employer as Defendant 117 Mineola Ave, LLC, bearing the Bates number COOKSTONDEF002445 through COOKSTONDEF002446. These documents were together entered as Exhibit 3 in the deposition of Kucher.

38. Attached hereto as **Exhibit 37** are true and correct copies of Kucher's (i) 2013 W-4, dated February 25, 2015, identifying his employer as Defendant Cookston Enterprises Inc., bearing the Bates number COOKSTONDEF002423; (ii) 2015 W-4, dated July 27, 2015, identifying his employer as 3551 Yonkers Pizza LLC, bearing the Bates number COOKSTONDEF002537; (iii) 2013 W-4, dated September 15, 2015, identifying his employer as 117 Minneola Ave LLC, bearing the Bates number COOKSTONDEF002440; and (iv) 2014 W-

4, dated November 11, 2015, identifying his employer as 3694 Lower East Side Pizza LLC, bearing the Bates number COOKSTONDEF002522. These documents together were entered as Exhibit 4 in the deposition of Kucher.

39. Attached hereto as **Exhibit 38** is a true and correct copy of Kucher's New York Wage Theft Prevention Act notice, dated October 12, 2015, identifying his employer as Defendant 107 Jericho Turnpike LLC. This document bears the Bates number COOKSTONDEF002422 and was entered as Exhibit 5 in the deposition of Kucher.

40. Attached hereto as **Exhibit 39** is a true and correct copy of paystubs issued by Defendant 3694 Lower East Side Pizza LLC to Hossain, bearing the Bates number PL000015.

41. Attached hereto as **Exhibit 40** is a true and correct copy of a 2015 paystub issued by Defendant 3694 Lower East Side Pizza LLC to Bobby. This document bears the Bates number PL000009 and was entered as Exhibit 2 in the deposition of Bobby.

42. Attached hereto as **Exhibit 41** is a true and correct copy of Hossain's Assurant Health Employee Enrollment Form, dated May 21, 2015, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates numbers COOKSTONDEF002468 through COOKSTONDEF002469 and was entered as Exhibit 6 in the deposition of Hossain.

43. Attached hereto as **Exhibit 42** is a true and correct copy of Hossain's National General Health Questionnaire, dated July 10, 2016, identifying his employer as Defendant 3694 Lower East Side Pizza LLC. This document bears the Bates numbers COOKSTONDEF002486 through COOKSTONDEF002489 and was entered as Exhibit 14 in the deposition of Hossain.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
October 31, 2017.

/s/ Norman M. Leon
Norman M. Leon